

61

BANKER BOTTS LLP

RECEIVED
DEC 15 2003
TECH CENTER 16A/2900

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000,
provides for continued examination of an utility or plant application
filed on or after June 8, 1995.
See The American Inventors Protection Act of 1999 (AIPA).

Application Number	09/611,419
Filing Date	July 6, 2000
First Named Inventor	Leonard Smith et al.
Group Art Unit	1645
Examiner Name	Portner, VA
Attorney Docket Number	A33626 067252.0105

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. Submission required under 37 C.F.R. § 1.114

- a. ☐ Previously submitted
 - i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered).
 - ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
 - iii. ☐ Other _____
- b. ☒ Enclosed
 - i. ☒ Amendment/Reply
 - ii. ☐ Affidavit(s)/Declaration(s)
 - iii. ☐ Information Disclosure Statement (IDS)
 - iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____

3. Fees

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 02-4377
 - i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
 - ii. ☒ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
 - iii. ☒ Other Any additional charges under 37 CFR 1.16 and 1.117
- b. ☒ Check in the amount of \$ 1720 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

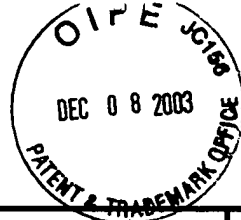
Name (Print/Type)	<u>Carmella L. Stephens</u>	Registration No. (Attorney/Agent)	<u>41,328</u>
Signature	<u>Carmella L. Stephens</u>	Date	<u>December 3, 2003</u>

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Alexandria, VA 22313-1450, or facsimile transmitted to the US Patent and Trademark Office on:

Name (Print/Type)	<u>Carmella L. Stephens</u>	Date	<u>December 3, 2003</u>
Signature	<u>Carmella L. Stephens</u>		

BAKER BOTTS LLP



FEE TRANSMITTAL for FY 2003

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$1,720

Complete if Known

Application Number	09/611,419
Filing Date	July 6, 2000
First Named Inventor	Leonard Smith et al.
Examiner Name	Portner, VA
Art Unit	1645
Attorney Docket No.	A33626 067252.0105

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

 Deposit
Account
Number
Deposit
Account
Name

02-4377

Baker Botts LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments

☒ Charge any additional fee required under 37CFR 1.16 and 1.17

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid	
	- 20 =	0	X		=	0	
Independent Claims	- 3 =	0	X		=	0	
Multiple Dependent							

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	950
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	770
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$1,720

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)

Carmella L. Stephens

Registration No.
(Attorney/Agent)

41,328

Telephone 212.408.2500

Signature

Carmella L. Stephens

Date

December 3, 2003

Title: RECOMBINANT VACCINE AGAINST BOTULINUM NEUROTOXIN

Use Space Below for Additional Information:

This submission includes:

RCE Transmittal (2 sheets);
Petition for Extension of Time (2 sheets);
Fee Transmittal (1 sheet in duplicate);
Amendment (26 sheets);
Two Exhibits (27 sheets);
Terminal Disclaimer (3 sheets);
Sequence Listing in paper form (46 sheets);
Sequence Listing in CRF (1 diskette);
Assignment Documents (7 sheets);
BB Check # 173286; and
Return Postcard.



A33626 067252.0105
PATENT
DEC 15 2003
TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Leonard A. Smith et al.
Serial No. : 09/611,419 Examiner : Portner, VA
Filed : July 6, 2000 Group Art Unit : 1645
For : RECOMBINANT VACCINE AGAINST BOTULINUM NEUROTOXIN

AMENDMENT

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MS: After Final, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

December 3, 2003

Date of Deposit

Carmella L. Stephens

Attorney Name

41,328

PTO Registration No.

Carmella L. Stephens
Signature

December 3, 2003

Date of Signature

Mail Stop: After Final
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is being filed in response to the Office Action dated June 3, 2003 that was issued in the above-identified application. Applicants respectfully request continued examination of the instant application pursuant to 35 U.S.C. § 132(a) and 37 C.F.R. § 1.114(a)(2) and enclose herewith the fee required pursuant to 37 C.F.R. § 1.17(e). Applicants also request a

three-month extension of time and enclose the fee required under 37 C.F.R. §1.17(a)(3).

Applicants further enclose herewith a Third Substitute Sequence Listing in paper and computer readable form in accordance with 37 C.F.R. §§ 1.821 to 1.825 and a Terminal Disclaimer under 37 C.F.R. § 1.321(b). Applicants respectfully request reconsideration of the above-identified application in light of the amendments and remarks presented in the instant Amendment.

Amendments to the Specification begin on page 3 of this paper.

Amendments to the Claims begin on page 6 of this paper.

Remarks begin on page 12 of this paper.